

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
Civil Action No. 5:14-cv-00529-H**

**BIODELIVERY SCIENCES  
INTERNATIONAL, INC.,**

Plaintiff,

v.

**RECKITT BENCKISER  
PHARMACEUTICALS, INC., RB  
PHARMACEUTICALS LIMITED,  
and  
MONOSOL RX, LLC,**

Defendants.

**JOINT MOTION TO STAY**

Plaintiff BioDelivery Sciences International, Inc. (“Plaintiff”) and Defendants Reckitt Benckiser Pharmaceuticals, Inc., RB Pharmaceuticals Limited, and MonoSol Rx, LLC (“Defendants”), by and through the undersigned counsel, respectfully jointly request that this Court issue an Order staying all proceedings. Plaintiff and Defendants state:

1. Plaintiff filed this action for declaratory judgment on September 20, 2014. By operation of law, 35 U.S.C. § 315 automatically stays a declaratory judgment action brought by a party who has sought *inter partes* review (IPR) of a patent-in-suit unless and until the patent owner asserts infringement counterclaims.

2. Here, the two patents-in-suit are the subject of proceedings at the United States Patent and Trademark Office.<sup>1</sup> U.S. Patent No. 8,475,832 is undergoing IPR and U.S. Patent No. 7,897,080 is in reexamination. Complaint ¶¶ 10, 12.

3. The parties conferred on December 11, 2014 and have agreed to maintain the automatic stay in this action as to the '832 patent, to stay the matter in regard to the '080 patent, and to jointly file this motion to reflect the parties' agreement and ensure the docket reflects that the case is stayed.

4. At present, Defendants do not intend to respond to the Complaint. However, in the event the Defendants determine that it would be appropriate to Answer the Complaint and assert Counterclaims, the parties jointly respectfully request that Defendants be permitted to file an Answer and Counterclaims during the pendency of the stay, without impacting the stay, but in any event the parties intend, and respectfully request the Court to order that Defendants are not required to answer or assert counterclaims in response to the Complaint during the pendency of the stay. The parties further jointly respectfully request that Plaintiff's obligation to respond to any Counterclaims be tolled until further Order of the Court following the termination of the stay. Plaintiff or Defendants may move at any time to lift the stay.

For the reasons set forth above, the parties respectfully request that the Court enter the accompanying Order staying this action in accordance with the foregoing.

Dated: December 12, 2014

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<sup>1</sup> The claims concerning U.S. Patent No. 8,652,378 have been dismissed pursuant to a Notice of Dismissal filed on December 12, 2014.

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### **CERTIFICATE OF SERVICE**

This is to certify that on December 12, 2014, a copy of the foregoing filed electronically with the Clerk of Court using CM/ECF system and served via electronic mail on the following parties:

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